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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

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MAR 24 1997

MAR 23 1996

MARKUS B. ZIMMER, CLERK
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OFFICE OF JUDGE
DAVID SAM

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Of Counsel

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MK GOLD COMPANY,

Plaintiff,

vs.

MORRISON KNUDSEN
CORPORATION,

Defendant.

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ORDER

Civil No. 2:96-CV-00935S

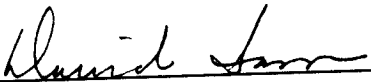
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This case came before the Court on February 26, 1998 at 1:00 p.m. for hearing on all pending motions. David A. Greenwood, David L. Arrington and Stephen K. Christiansen appeared on behalf of plaintiff. Daniel L. Berman, Peggy A. Tomsic and Stephen R. Waldron appeared on behalf of defendant. The Court reviewed and considered the parties' memoranda and oral argument of counsel. For the reasons stated herein and as set forth by the Court on the record, and good cause appearing,

IT IS HEREBY ORDERED as follows:

1. Defendant's Consolidated Statement of Uncontested Material Facts is stricken. The Court did not consider it in connection with the pending motions.
2. The motions to strike filed by both parties are denied. In resolving the summary judgment motions, the Court considered only appropriate references and only those statements that comply with the applicable federal rules of evidence and procedure.
3. Defendant's Motion for Summary Judgment involving enforcement of the Agreement Not to Compete is denied. Genuine issues of material fact are in dispute.
4. Defendant's Motion for Partial Summary Judgment on Plaintiff's Trademark Claims contained in the Third, Fourth and Fifth Causes of Action is denied. Genuine issues of material fact are in dispute.
5. Defendant's Motion in Limine and for Partial Summary Judgment that Plaintiff was not Damaged or Injured is denied. The Court has allowed and considered plaintiff's opposing memorandum filed February 24, 1998. Further, the Motion in Limine is rendered moot by the plaintiff's final expert report.

ORDER MK GOLD CO V MORRISON KNUDSEN CORP. 2:96-CV-0935-S
DATED: March 24th, 1998.



David Sam
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the within and foregoing
ORDER to be hand delivered this 20 day of March, 1998, to the following:

David A. Greenwood, Esq.
David L. Arrington, Esq.
David K. Christiansen, Esq.
VAN COTT, BAGLEY, CORNWALL & MCCARTHY
50 South Main, Suite 1600
P. O. Box 45340
Salt Lake City, Utah 84145

A handwritten signature in black ink, appearing to read "Alana Romney", written over a horizontal line.

mjm

United States District Court
for the
District of Utah
March 26, 1998

* * MAILING CERTIFICATE OF CLERK * *

Re: 2:96-cv-00935

True and correct copies of the attached were mailed by the clerk to the following:

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